

(4) Although a lien search is not always required for youths who are minors (as defined in State supplements), the County Supervisor may determine that a search is necessary to assure the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants should obtain and pay for lien searches. FmHA or its successor agency under Public Law 103-354 County Office employees may make lien searches (at no cost to the applicant) in exceptional cases, such as when no other person is available to provide such a service, or when experience has shown that using the service available would lead to an undue delay in closing the loan and the delay would cause undue hardship to the borrower.

(2) The State Director will issue a State supplement setting forth the requirements for lien searches, including the records to be searched and the periods to be covered.

(3) The applicant should be informed of County Clerks, local attorneys or other persons who will conduct lien searches at a reasonable cost. The applicant will select the lien searcher. The cost of a lien search can be paid from the proceeds of loan checks.

§§ 1941.64-1941.66 [Reserved]

§ 1941.67 Additional requirements for perfecting security interests.

If necessary because of provisions in State statutes, leases, land purchase contracts, or real estate mortgages commonly in use, State Directors will issue State supplements which tell how to obtain a subordination agreement, certification of obligation to landlord, disclaimer, and consent and subordination agreement to perfect security interest.

(a) *Form FmHA or its successor agency under Public Law 103-354 441-5, "Subordination Agreement."* This form will be used if a subordination agreement is required by FmHA or its successor agency under Public Law 103-354 on crops, livestock, farm equipment, or other chattels. If Form FmHA or its successor agency under Public Law 103-354 441-5 is not legally sufficient, a form recommended by OGC will be used. The time to be covered by the

subordination agreement generally will be equal to the repayment period of the loan or for the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(b) *Form FmHA or its successor agency under Public Law 103-354 441-17, "Certification of Obligation to Landlord."* This form may be used instead of obtaining a subordination agreement if:

(1) It appears that the applicant is not financially obligated to the landlord except for rent for the lease year and will not incur other obligations to the landlord during that year, and

(2) A State supplement authorizing the use of Form FmHA or its successor agency under Public Law 103-354 441-17 in such cases has been issued.

(c) *Form FmHA or its successor agency under Public Law 103-354 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) If a debt on an item which has already become a fixture is being refinanced, consent and subordination agreements will be signed before releasing loan funds to the creditor. In all other cases in which a security interest is being taken on an item that already has become a fixture, consent and subordination agreements will be signed no later than the time of loan closing.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

[43 FR 55883, Nov. 29, 1978, as amended at 54 FR 47959, Nov. 20, 1989]

§§ 1941.68-1941.70 [Reserved]

§ 1941.71 Fees.

The borrower will pay all fees for filing or recording financing statements, mortgages, or other legal instruments